IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION NO. 5897 OF 1993

For Approval and Signature:

HONOURABLE MR.JUSTICE R.S.GARG

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the Civil Judge ?

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SMT KAMLABEN WD/O CHUNILAL BALKRISHNA AKHANI - Petitioner(s)

Versus

UNION OF INDIA & ANR. - Respondent(s)

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Appearance :
Shri K.D. Pandya for Petitioner(s).
None for Respondent(s) : 1.
Shri Alpesh Rajpuriya for Respondent(s) : 2.

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CORAM : HONOURABLE MR.JUSTICE R.S.GARG

Date : 16/07/2007

ORAL JUDGMENT

The petitioner (since deceased), who was working as a

timekeeper with respondent No.2, is before this Court with a submission that in view of Annexure-A appended to Kandla Port Employees (Retirement) Regulations, 1978, he is required to be treated as a workman and can be retired only after he attains the age of 60 years. It is to be noted that he was retired at the age of 58 years, therefore, he came to this Court under Article 226 of the Constitution of India.

2. In the above referred Annexure-A, the timekeeper is not shown to be a workman, therefore, *prima facie* such timekeeper would not be deemed to be a workman.

3. Shri K.D. Pandya, learned Counsel for the petitioner, however, submits that the duties discharged by the petitioner (since deceased) are similar to the duties discharged by the Chargeman or Assistant Foreman, therefore, he was entitled to be continued upto the age of 60 years.

4. On being asked that what particular duties were discharged by the Chargeman and Assistant Foreman and/or by the present petitioner, the learned Counsel for the petitioner was unable to give any details. Even otherwise, when the duties discharged by different categories of people are to be compared, some evidence is required to be brought on record. In the present case, in absence of any evidence, I am

unable to hold that the petitioner, who was working as a time-keeper, would be deemed to be a workman and would be entitled to the benefits of retirement at the age of 60 years.

5. In the result, the petition is dismissed. Rule is discharged. Interim relief, if any, is vacated. No costs.

[R.S.Garg, J.]

*kamlesh**